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OFFICE OF PETITIONS

In re Application of :
Ahlgren et al. : LETTER AND
Application No. 09/633,857 : NOTICE OF ABANDONMENT
Filed: 7 August, 2000 :
Att'y Docket No. FIS9-2000-0149US1 :

This is letter is in reference to the paper styled "Response to Notice of Incomplete Reply (Nonprovisional) and/or Petition Under 37 CFR 1.181 and/or 1.182" filed on 13 August, 2001.

The application is abandoned.

On 7 August, 2000, the present application was filed. On 17 October, 2000, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 7 August, 2000, and that a signed oath or declaration and a surcharge for its late filing were required. The Notice set a two (2) month period for reply.

In response, on 26 October, 2000, applicants submitted a signed declaration and authorization to charge counsel's deposit account, No. 09-0458, the surcharge of \$130.00. On 18 June, 2001, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that the reply filed on 26 October, 2000, was incomplete in that the oath or declaration was unsigned and the filing fee had not been received. The Notice stated that the period of reply remained as set forth in the Notice to File Missing Parts mailed on 17 October, 2000.

Applicants state a proper reply to the Notice to File Missing Parts was submitted on 26 October, 2000. A review of the record reveals that although a signed declaration was submitted on 26 October, 2000, the Office of Initial Patent Examination (OIPE)

was unable, however, on 30 October, 2000, to charge the surcharge of \$130.00 because counsel's deposit account contained insufficient funds. It is applicants' responsibility to maintain an amount sufficient to cover all fees, services, copies, etc. on deposit at all times.¹ As such, the reply was incomplete in that the surcharge was not timely paid.

As the surcharge was not timely paid, and no extensions of time in accordance with 37 CFR 1.136(a) were obtained, the application became abandoned on 18 December, 2000. A grantable petition under 37 CFR 1.137 must be filed to continue prosecution of this application.

Further correspondence with respect to this matter should be addressed as follows:


By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file will be retained in the Office of Petitions for TWO (2) months to await applicant's response to this letter. Thereafter, the application will be forwarded to the Office of Initial Patent Examination for processing as an abandoned application.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.


Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹37 CFR 1.25(a).